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SENATE

REPORT
99-474

PROVIDING FOR THE SETTLEMENT OF CERTAIN CLAIMS RESPECTING THE SAN CARLOS APACHE TRIBE OF ARIZONA AND THE INTERNAL REVENUE SERVICE

SEPTEMBER 23 (legislative day SEPTEMBER 15), 1986.—Ordered to be printed

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Mr. ANDREWS, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 3526]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 3526) to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona and the Internal Revenue Service, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended do pass.

The amendment is as follows;

Add a new Section 3 as follows:

> SEC. 3. Notwithstanding any previously approved plan for the use and distribution of the Ak-Chin, Salt River Pima-Maricopa, and Gila River Pima-Maricopa Indian communities judgment funds in Docket 228 before the United States Claims Court, upon the request of the governing body of the Gila River Pima-Maricopa Indian Community, as manifested by the appropriate Tribal Council resolution, the Secretary of the Interior shall make a per capita distribution not to exceed eighty (80) percent of the funds apportioned to the Gila River Pima-Maricopa Indian Community, in a sum as equal as possible, to each member of the Gila river Pima-Maricopa Indian Community born or prior to and living on August 10, 1986.

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PURPOSE

H.R. 3526 effects a compromise settlement of a claim of the Internal Revenue Service against the San Carlos Apache Tribe of Arizona for interest on unpaid Federal unemployment taxes. In settling, the tribe paid back taxes in the amount of $827,260.71 and IRS waived all penalties and interest on penalties. IRS did not have legal authority to waive the interest on back taxes. This bill authorizes the waiver of interest on back taxes in this instance and legislatively approves the settlement.

H.R. 3526 was supported by Congressmem McCain, Udall and Rudd in the House of Representatives and passed there on June 26, 1986.

BACKGROUND

The San Carlos Appache Indian Tribe was unable to pay taxes owed for Federal unemployment purposes during 1975, 1979, 1980, 1981, and 1983. The Internal Revenue Service assessed back taxes, penalties and interest and also attempted to levy upon the trust assets of the tribe.

The Department of Interior strongly disagreed with the IRS and urged that negotiation start to settle the claim. A settlement was arrived at, the tribe paid the back taxes and IRS accepted the payment and waived the interest. IRS is not authorized to waive interest by law. This legislation authorizes the settlement according to the term agreed upon.

LEGISLATIVE HISTORY

H.R. 3526 has been supported by Congressmen Udall, Rudd, and McCain and passed the House on June 26, 1986. The bill was introduced by Congressman McCain and co-sponsored by Congressmen Udall and Rudd. It was referred to the House Committee on Interior and Insular Affairs, favorable Executive comment was received from Interior on May 13, 1986, passed the House and was referred to the Committee on Indian Affairs after being sent to the Senate and was approved unanimously by the Select Committee on Indian Affairs with a quorum present on September 15, 1986 with an amendment.

COMMITTEE RECOMMENDATION

The Select Committee on Indian Affairs having voted unanimously with a quorum present on September 15, 1986, recommends that the Senate pass H.R. 3526, as amended.

COMMITTEE AMENDMENT

The amendment adds an additional section which is designated Sec. 3 and is not germane to the purpose of the bill. The amendment authorizes the Secretary to make a per capita payment to the Ak-Chin, Salt River Pima-Maricopa and the Gila River Pima-Maricopa Indian Communities from certain judgment funds in the possession of the Secretary as Trustee.

SECTION-BY-SECTION ANALYSIS

Section 1 recites that the United States Government and the San Carlos Apache Tribe entered into an agreement to settle the dispute over taxes owed on May 15, 1985. In abating interest and penalties it states that the Tribe paid the monies owed in a timely manner.

Section 2 abates the interest.

Section 3 is the provision which is not germane and deals with judgment funds owned by another Community of Indians in Arizona, the Ak-Chin, Chin, Salt River Pima-Maricopa and the Gila River Pima-Maricopa.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for H.R. 3526 as provided by the Congressional Budget Office is set for below.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1986.

Hon. MARK ANDREWS,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3526, a bill to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona, as amended and ordered reported by the Senate Select Committee on Indian Affairs, September 15, 1986.

This bill would forgive all interest that has accrued on the tax liability of the tribe. In May 1985, the tribe and the Internal Revenue Service (IRS) reached an agreement in which the tribe agreed to pay its overdue tax liability and the IRS agreed to forgive all interest and waive all penalties. The IRS has waived all penalties, but legislation is required to forgive the interest. The accrued interest on the tax liability is about $600,000. Forgiveness of this interest could result in a revenue loss to the federal government, but, because of the lack of information regarding the tribe's ability to pay the interest, CBO is currently unable to determine in which fiscal year, if any, the revenue loss would occur.

H.R. 3526 also provides for the distribution of funds previously awarded to the Gila River Pima-Maricopa Indian Community. CBO estimates that this provision results in no cost to the federal government.

Enactment of this bill would result in no costs to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD GRAMLICH,
(For Rudolph G. Penner).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. It is the opinion of the Committee that H.R. 3526 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee received the following communication from the Administration.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 13, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 3526, a bill "To provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona."

We recommend enactment of H.R. 3526 by the Congress.

For several years the San Carlos Apache Tribe (Tribe) of Arizona did not pay to the Internal Revenue Service (IRS) unemployment insurance taxes and social security contributions withheld from the wages of tribal employees. It is our understanding that the Tribe's failure to pay the taxes and contributions when owed resulted from poor financial management, which the Tribe has taken steps to correct, rather than from an intentional disregard of its tax obligations. After this matter was brought to their attention, the Tribe requested the IRS to assist them in determining the amount of back taxes and contributions owed. The Tribe and the IRS subsequently negotiated an agreement on May 15, 1985, whereby the Tribe would pay the back taxes and contributions owed (approximately $500,000 in total) and seek legislation to forgive the interest due since the IRS does not have this authority. The IRS, on its part, agreed not to assess a penalty if the back payments were paid in full and legislation was enacted by the Congress to forgive the interest due.

H.R. 3526 would implement the May 15, 1985, agreement between the Tribe and the IRS. While we do not condone the action of the Tribe in not paying the taxes and contributions when owed, we are pleased that the Tribe and the IRS were able to reach an agreement. We support H.R. 3526 as an appropriate vehicle to implement the May 15 agreement. Our support for this bill does not constitute any precedent for the future.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROSS O. SWIMMER,
Assistant Secretary.

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